

21 C.J.S. Courts § 86

Corpus Juris Secundum | May 2023 Update

Courts

M. Elaine Buccieri, J.D.; James Buchwalter, J.D.; Amy G. Gore, J.D., of the staff of the National Legal Research Group, Inc; and Lonnie E. Griffith, Jr., J.D.

II. Jurisdiction of Courts

G. Discretion of Court to Exercise or Decline Jurisdiction

2. Forum Non Conveniens as Basis for Declining Exercise of Jurisdiction

§ 86. Plaintiff's choice of forum as factor for forum non conveniens

[Topic Summary](#) | [References](#) | [Correlation Table](#)

West's Key Number Digest

West's Key Number Digest, [Courts](#)  40.3

The considerations involved in a forum non conveniens determination as a basis for declining the exercise of jurisdiction include a strong preference or presumption favoring the plaintiff's choice of forum, particularly applied to resident plaintiffs, while lesser standards apply to the choices of nonresident or foreign plaintiffs.

In considering the application of principles of forum non conveniens as a basis for declining the exercise of jurisdiction,¹ the balancing of public and private interests² is subject to the weight the court must give to the plaintiff's choice of forum,³ and more particularly the deference or preference afforded a resident plaintiff's choice of forum,⁴ the latter being generally characterized as a strong presumption,⁵ strong policy,⁶ or substantial⁷ or strong deference for the choice of a resident plaintiff.⁸

The deference accorded a plaintiff is at its highest level when the plaintiff's choice of forum is motivated by legitimate reasons,⁹ and when the cause of action arises in the forum state.¹⁰ Thus, before weighing the competing factors, the court must determine how much deference to give the plaintiff's choice of forum.¹¹

While the doctrine applies to both resident and foreign plaintiffs,¹² less deference is generally given a nonresident plaintiff from another state,¹³ and substantially less is given a plaintiff from a foreign country.¹⁴

When factors of convenience are closely balanced, the plaintiff is entitled to its choice of forum¹⁵ and the plaintiff's choice should rarely be disturbed unless the balance is strongly in favor of the defendant.¹⁶ The court will defer to the plaintiff's choice in a case when private interests only slightly favor dismissal and public interests weigh against it.¹⁷

CUMULATIVE SUPPLEMENT

Cases:

The presumption that a defendant bears a heavy burden in opposing the plaintiff's choice of forum is especially strong where the plaintiff is a resident of the chosen forum. *Ansello v. Wisconsin Central, Ltd.*, 900 N.W.2d 167 (Minn. 2017).

[END OF SUPPLEMENT]

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Footnotes

- 1 § 82.
- 2 § 85.
- 3 Cal.—*National Football League v. Fireman's Fund Insurance Company*, 216 Cal. App. 4th 902, 157 Cal. Rptr. 3d 318 (2d Dist. 2013).

Fla.—*Cortez v. Palace Resorts, Inc.*, 123 So. 3d 1085 (Fla. 2013).

Md.—*Volkman v. Hanover Investments, Inc.*, 225 Md. App. 602, 126 A.3d 208 (2015).

N.Y.—*OrthoTec, LLC v. Healthpoint Capital, LLC*, 84 A.D.3d 702, 924 N.Y.S.2d 78 (1st Dep't 2011).

Tex.—*Richardson v. Newman*, 439 S.W.3d 538 (Tex. App. Houston 1st Dist. 2014).

W. Va.—*State ex rel. J.C. ex rel. Michelle C. v. Mazzone*, 235 W. Va. 151, 772 S.E.2d 336 (2015).- 4 Ariz.—*Parra v. Continental Tire North America, Inc.*, 222 Ariz. 212, 213 P.3d 361 (Ct. App. Div. 1 2009).

Cal.—*David v. Medtronic, Inc.*, 237 Cal. App. 4th 734, 188 Cal. Rptr. 3d 103 (2d Dist. 2015), as modified, (June 26, 2015).

Del.—*Lisa, S.A. v. Mayorga*, 993 A.2d 1042 (Del. 2010).

Ill.—*Wilder Chiropractic, Inc. v. State Farm Fire and Cas. Co.*, 2014 IL App (2d) 130781, 382 Ill. Dec. 781, 13 N.E.3d 194 (App. Ct. 2d Dist. 2014).

N.Y.—*OrthoTec, LLC v. Healthpoint Capital, LLC*, 84 A.D.3d 702, 924 N.Y.S.2d 78 (1st Dep't 2011).

Tex.—*In re Ford Motor Co.*, 442 S.W.3d 423 (Tex. App. Corpus Christi 2012).

Utah—*Diversified Striping Systems, Inc. v. Kraus*, 2014 UT App 287, 341 P.3d 932 (Utah Ct. App. 2014).

Statutory bias only for resident plaintiffs
La.—*Brumley v. Akzona, Inc.*, 45 So. 3d 1115 (La. Ct. App. 4th Cir. 2010).

- 5 Cal.—Hahn v. Diaz-Barba, 194 Cal. App. 4th 1177, 125 Cal. Rptr. 3d 242 (4th Dist. 2011).
Fla.—Cortez v. Palace Resorts, Inc., 123 So. 3d 1085 (Fla. 2013).
N.J.—Yousef v. General Dynamics Corp., 205 N.J. 543, 16 A.3d 1040 (2011).
- 6 Md.—Volkman v. Hanover Investments, Inc., 225 Md. App. 602, 126 A.3d 208 (2015).
- 7 Ill.—In re Marriage of Murugesh and Kasilingam, 2013 IL App (3d) 110228, 373 Ill. Dec. 550, 993 N.E.2d 1109 (App. Ct. 3d Dist. 2013).
- 8 Del.—Lisa, S.A. v. Mayorga, 993 A.2d 1042 (Del. 2010).
Tex.—In re Mantle Oil & Gas, LLC, 426 S.W.3d 182 (Tex. App. Houston 1st Dist. 2012).
- 9 Fla.—Rolls-Royce, Inc. v. Garcia, 77 So. 3d 855 (Fla. 3d DCA 2012).
Utah—Energy Claims Ltd. v. Catalyst Inv. Group Ltd., 2014 UT 13, 325 P.3d 70 (Utah 2014).
- 10 Ill.—Wilder Chiropractic, Inc. v. State Farm Fire and Cas. Co., 2014 IL App (2d) 130781, 382 Ill. Dec. 781, 13 N.E.3d 194 (App. Ct. 2d Dist. 2014).
- 11 Ill.—In re Marriage of Murugesh and Kasilingam, 2013 IL App (3d) 110228, 373 Ill. Dec. 550, 993 N.E.2d 1109 (App. Ct. 3d Dist. 2013).
Utah—Energy Claims Ltd. v. Catalyst Inv. Group Ltd., 2014 UT 13, 325 P.3d 70 (Utah 2014).
- 12 N.J.—In re Vioxx Litigation, 395 N.J. Super. 358, 928 A.2d 935 (App. Div. 2007).
- 13 Cal.—National Football League v. Fireman's Fund Insurance Company, 216 Cal. App. 4th 902, 157 Cal. Rptr. 3d 318 (2d Dist. 2013) (due deference, not strong presumption).
Reasonable deference to nonresidents
Ill.—Koss Corp. v. Sachdeva, 2012 IL App (1st) 120379, 363 Ill. Dec. 434, 975 N.E.2d 236 (App. Ct. 1st Dist. 2012).
Contrary rule
Fla.—Cortez v. Palace Resorts, Inc., 123 So. 3d 1085 (Fla. 2013).
- 14 Ariz.—Parra v. Continental Tire North America, Inc., 222 Ariz. 212, 213 P.3d 361 (Ct. App. Div. 1 2009).
Cal.—David v. Medtronic, Inc., 237 Cal. App. 4th 734, 188 Cal. Rptr. 3d 103 (2d Dist. 2015), as modified, (June 26, 2015).
Fla.—Cortez v. Palace Resorts, Inc., 123 So. 3d 1085 (Fla. 2013).
Tex.—Richardson v. Newman, 439 S.W.3d 538 (Tex. App. Houston 1st Dist. 2014).
- 15 Ariz.—Parra v. Continental Tire North America, Inc., 222 Ariz. 212, 213 P.3d 361 (Ct. App. Div. 1 2009).
- 16 D.C.—Garcia v. AA Roofing Co., LLC, 125 A.3d 1111 (D.C. 2015).
Ill.—Wilder Chiropractic, Inc. v. State Farm Fire and Cas. Co., 2014 IL App (2d) 130781, 382 Ill. Dec. 781, 13 N.E.3d 194 (App. Ct. 2d Dist. 2014).
N.Y.—Thor Gallery at South DeKalb, LLC v. Reliance Mediaworks (USA) Inc., 131 A.D.3d 431, 15 N.Y.S.3d 766 (1st Dep't 2015).

Wash.—*Lisby v. PACCAR, Inc.*, 178 Wash. App. 516, 316 P.3d 1097 (Div. 1 2013).

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Ariz.—*Parra v. Continental Tire North America, Inc.*, 222 Ariz. 212, 213 P.3d 361 (Ct. App. Div. 1 2009).

Fla.—*Hilton Intern. Co. v. Carrillo*, 971 So. 2d 1001 (Fla. 3d DCA 2008), cause dismissed, 982 So. 2d 684 (Fla. 2008).

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